IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

Crl.Rev.Pet.No. 2765 of 2007()

CRA.403/2000 of ADDL. SESSIONS COURT (ADHOC), TRIVANDRUM
ST.1995/2000 of JUDL. MAGISTRATE OF FIRST CLASS COURT-III, TRIVANDRUM

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REVN. PETITIONER: REVISION PETITIONER/APPELLANT:

SINDHU, D/O. SARASAMMA,
VILAYIL KONAM, NAMBYARKKONAM DESOM, SREEKARIAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.THIRUMALA P.K.MANI

RESPONDENTS: STATE:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 24/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 2765 OF 2007

Dated this the 24th day of August, 2007

O R D E R

The revision petitioner, a lady, who was the accused in S.T.No.1995/2000 on the file of the JFCM-III, Thiruvananthapuram, challenges the conviction entered and the sentence passed concurrently against her for an offence punishable under section 47 of the Kerala Police Act, 1960.

2. The case of the prosecution is that on 31.8.2000 at about 9 p.m. she was found, without any reasonable excuse, inside the R.M.S. compound, Thiruvananthapuram, presumably for committing immoral activities.

3. When she appeared consequent on summons, free legal aid was offered to her to defend her case. She submitted before the trial Magistrate that she does not want any legal aid. When the particulars of the offence were read over and explained to her, she voluntarily pleaded guilty and the learned Magistrate convicted her of the offence and sentenced her to undergo simple imprisonment for 15 days and to pay a fine of Rs.200/- (Rupees two hundred only). On appeal preferred by the revision petitioner

as Criminal Appeal No.403/2000 before the Additional District and Sessions Court, Fast Track-I, Thiruvananthapuram, an advocate was engaged for defending her on State Brief. Thereafter, the appeal was heard and the Additional Sessions Judge as per judgment dated 2.9.2006 found that she had voluntarily pleaded guilty to the particulars of the offence read over and explained to her and that since the plea was made by her after getting sufficient legal advice, there was nothing wrong in the conviction entered and the sentence passed against her. It is the said judgment of the Additional Sessions Court which is assailed in this revision.

4. I heard both sides. In as much as the finding recorded by the trial court was that the revision petitioner had voluntarily pleaded guilty to the particulars of offence read over and explained to her, her appeal against conviction was not maintainable in view of section 375 Cr.P.C. However, it was open to her to canvas the legality or otherwise of the sentence.

5. After perusing the records, since it is not shown that she is a habitual offender, I do not think that penal servitude by way of incarceration is warranted in this case and that interests of justice will be adequately met by awarding an appropriate fine.

Accordingly, the sentence imposed on the revision petitioner is set aside and she is directed to pay a fine of Rs.500/- (Rupees five hundred only) for the conviction under section 47 of the Kerala Police Act. On failure to pay the fine within one month from today, she shall suffer simple imprisonment for 15 days.

The order dated 25.7.2007 passed earlier is superceded and revised as above.

(V. RAMKUMAR, JUDGE)

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